

HOUSE BILL REPORT

SB 5314

As Passed House:
April 15, 2015

Title: An act relating to the use of local storm water charges paid by the department of transportation.

Brief Description: Modifying the use of local storm water charges paid by the department of transportation.

Sponsors: Senators Benton, Cleveland and King.

Brief History:

Committee Activity:

Environment: 3/12/15, 3/24/15 [DP];
Transportation: 3/30/15, 3/31/15 [DP].

Floor Activity:

Passed House: 4/15/15, 92-6.

Brief Summary of Bill

- Authorizes local government utilities to use the charges paid by the Washington State Department of Transportation (WSDOT) for storm water control to be used for facilities or to implement best management practices that reduce runoff, rather than requiring those charges to be used to specifically address runoff from state highways.
- Removes the requirement for the WSDOT and the local government utility to develop an expenditure plan for the charges paid by the WSDOT that is supplemented by annual reports on plan implementation progress by the local government utility to the WSDOT.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: Do pass. Signed by 10 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Shea, Ranking Minority Member; Short, Assistant Ranking Minority Member; Farrell, Fey, Goodman, Harris, McBride and Pike.

Minority Report: Do not pass. Signed by 1 member: Representative Taylor.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Jacob Lipson (786-7196).

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 24 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Bergquist, Gregerson, Harmsworth, Hayes, Kochmar, McBride, Moeller, Morris, Ortiz-Self, Pike, Riccelli, Sells, Shea, Takko, Tarleton, Wilson, Young and Zeiger.

Staff: Alyssa Ball (786-7140).

Background:

Under the Clean Water Act (CWA), the National Pollutant Discharge Elimination System (NPDES) regulates point sources that discharge pollutants into United States waters. Three point sources for stormwater runoff are regulated under the NPDES: municipal separate storm sewer systems (MS4s), construction activities, and industrial activities. The MS4s are conveyances, or a system of conveyances, such as roads and streets with drainage systems, catch basins, ditches, man-made channels, and storm drains.

The Department of Ecology (ECY) is authorized to administer the NPDES regulations, and approve permits covering storm water discharges to any state waters for which the Environmental Protection Agency has approved a total maximum daily load (TMDL). Under this permit, the Department of Transportation (DOT) is required to manage storm water discharges for state highways, rest areas, park and ride lots, ferry terminals, and maintenance facilities.

Storm Water Control Facilities.

Storm water control facilities collect, pipe, and transport excess rain water off-site to a river or stream while filtering the water and controlling the flow to prevent flooding. The DOT designs and constructs storm water control facilities for their state highway right-of-ways and cleans, repairs, and conducts annual inspections for the facilities.

Not all of the storm water runoff from state highways is pre-treated by the DOT storm water systems, and some storm water may end up in a county system comingled with non-DOT runoff.

Local government utilities may charge the DOT for the construction, operation, and maintenance of storm water control facilities associated with state highway right-of-ways in a local government utility's jurisdiction. In general, the rate charged to the DOT for storm water treatment by local government utilities may not exceed 30 percent of the rate for comparable real property, may only be charged for limited-access facilities, and may not be greater than the rate charged to comparable city and county roads.

Charges paid by the DOT must be used solely for storm water control facilities that reduce state highway runoff impacts or to implement best management practices that reduce the need for storm water control facilities. The DOT and local government utility must develop

a plan for how the funds received by the utility will be used, and the utility must provide and submit a progress report on the use of the funds to the DOT. If included in a plan, the DOT and a local government utility may also agree to a higher or lower rate than directed by the criteria that generally governs the amount of the charges.

The state's 2014 Supplemental Transportation Budget made temporary changes to the allowable uses of storm water fees charged to the DOT, and to the plan requirements for local governments. Until June 30, 2015, local government utilities are no longer required to use revenues related to the DOT charges for facilities and best management practices specifically related to the runoff impacts of state highways. Although the focus of those expenditures must still relate to runoff issues, the direct nexus to state highways is temporarily removed. For the same time period, the annual expenditure planning and reporting requirements are waived.

Summary of Bill:

The temporary changes to the DOT storm water fees adopted in the 2014 Transportation Budget are made a continuing part of state law:

- The charges paid by the DOT to local government utilities may be used for storm water control facilities or best management practices implementation for all types of runoff, rather than solely for facilities and best management practice implementation focused only on state highway runoff.
- The expenditure plan for DOT charges paid to local government utilities is also eliminated, along with the annual progress report on plan implementation.
- The DOT and local government utility may continue to agree to a higher or lower DOT storm water charge than is generally directed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on June 30, 2015.

Staff Summary of Public Testimony (Environment):

(In support) Allowing storm water fees to be spent on non-highway storm water projects creates efficiencies, flexibility for cities, and cost savings. All money spent on storm water projects ends up benefitting the environment, whether or not the projects are directly related to state highway runoff or other storm water projects. The DOT has not been cooperative and fair to local governments regarding the acceptable uses of the storm water fees charged to the DOT. The current limit on the rates of storm water fees charged by local utilities to the DOT, which this bill does not amend, should also be reevaluated in the future.

(With concerns) Payments by the DOT to local governments for storm water fees are a significant cost, and this bill would increase the DOT's financial stress by increasing the local storm water fees sought by local governments. Funds spent on local government storm water projects displace expenditures on other projects, including state highway storm water

projects. The DOT usually coordinates effectively with local governments about storm water fee expenditures.

(Opposed) None.

Staff Summary of Public Testimony (Transportation):

(In support) When storm water charges were created, there were concerns that the state would have to pay a lot of money, so the state was exempted from paying 70 percent of the storm water fees. Current law only allows for these fees to be used for the WSDOT-related clean water activities. This bill will allow local governments to have some flexibility and keep the system as a whole running and operating efficiently and effectively. Additionally, this bill will create efficiencies and savings at the local level. The WSDOT has not been cooperative and fair to local governments regarding the acceptable uses of the storm water fees that are charged to the WSDOT.

(With concerns) There are concerns about the fiscal impact to the WSDOT, which are indicated in the fiscal note. The flexibility in how the fees are allowed to be spent in the bill may result in local governments charging the WSDOT more money. Fees paid out by the WSDOT to locals only go to local projects, not state projects. The discounted rate the WSDOT pays is due to the recognition of the fact that the WSDOT expends other funds on storm water related activities in their various programs to manage their storm water before it leaves their right-of-way.

(Opposed) None.

Persons Testifying (Environment): (In support) Allison Hellberg, Association of Washington Cities; and Chris Clifford, Clark County Department of Environmental Services.

(With concerns) Chris Christopher, Washington State Department of Transportation.

Persons Testifying (Transportation): (In support) Senator Benton, prime sponsor; Alison Hellberg, Association of Washington Cities; Gary Rowe, Washington State Association of Counties; and Chris Clifford, Clark County.

(With concerns) Rico Baroga, Washington State Department of Transportation.

Persons Signed In To Testify But Not Testifying (Environment): None.

Persons Signed In To Testify But Not Testifying (Transportation): None.